IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 26TH DECEMBER 2006 / 5TH POUSHA 1928

Crl.MC.No. 4116 of 2006()

CC.1150/2006 of JUDL. MAGISTRATE OF FIRST CLASS, KASARAGOD

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PETITIONER:

V. KANNAN, S/O. AMBOONHI KOMARAM,
KOTTARUVAM, CHEMNADU VILLAGE

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:

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1. SUB INSPECTOR OF POLICE,
KASARAGOD POLICE STATION

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl. M.C. No. 4116 of 2006

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Dated, 26th December 2006

ORDER

Petitioner who was the 4th accused in C.C. 319/03 0on the file of the J.F.C.M. Kasaragod for offences punishable under Sections 447, 323 and 324 read with Sec. 34 I.P.C. stood trial before that court till the stage of examination under Sec. 313 Cr.P.C. Thereafter, he was absconding, consequent on which the case against him was refiled as C.C. 1150/06 in which he is the 2nd accused. C.C. 319/03 was proceeded with against the remaining accused and it is said to have ended in acquittal. While so, the petitioner has approached this Court seeking a direction to quash the charge-sheet in C.C. 1150/06 and to recall the non-bailable warrant issued against him.

2. The prayer to quash the charge on the basis that the co-accused has been acquitted cannot be granted in the light of the recent decision of the Full Bench of this Court. The petitioner will have to face the trial independent of the judgment rendered in C.C. 319/03. But at the same time, since he had faced trial in C.C. 319/03

till the stage of examination under Sec. 313 Cr.P.C. a de novo trial in C.C. 1150/06 may not be necessary. The learned counsel for the petitioner also agrees that the petitioner has no objection in treating the evidence recroded in C.C. 319/03 as the evidence in C.C. 1150/06.

Accordingly, this Crl.M.C. is disposed of directing the petitioner to surrender before the J.F.C.M.-I, Kasaragod who shall release the petitioner on bail on appropriate conditions and shall also proceed with C.C. 1150/06 after treating the evidence recorded in C.C. 319/03 until the stage at which the petitioner absconded in that case and shall complete the trial expeditiously.

Sd/- V. RAMKUMAR,
(JUDGE)

ani.

/true copy/

P.A. to Judge.